

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GAIL GALLOWAY

Plaintiff

v.

PENNSYLVANIA BOARD OF
PROBATION AND PAROLE, *et al.*,

Defendants

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No. 1:00-CV-00649

Judge Rambo

Magistrate Judge Smyser

MOTION FOR AN ENLARGEMENT OF
TIME IN WHICH TO RESPOND TO
I N T E R R O G A T O R I E S

Joseph Smith, Daniel Roberts, George Johnson, Charles B. Giornesto, and William Ward, by their attorneys, ask the Court to enlarge the time to respond to Interrogatories propounded to them by ten days. They supply the following information in support of this request.

1. On February 17, 2004, plaintiff served by mail on Joseph Smith, Daniel Roberts, George Johnson, Charles B. Giornesto, and William Ward one

copy each of his first set of interrogatories by mailing them to defense counsel.¹

2. Therefore if service is considered effective, responses are due on March 22, 2004.
2. The only claim remaining after remand by the Court of Appeals regards whether Smith had probable cause to arrest plaintiff on June 1, 1998.
3. At or about the time counsel for defendants was seeking plaintiff's concurrence in a motion for enlargement of time to respond to the amended complaint, plaintiff informed defense counsel that the Court had issued a January 29, 2004, Order establishing various deadlines in the action. This was the first time defense counsel was aware of the January 29, 2004, Order.
4. Defense counsel contacted the Clerk's Office and learned that the reason he had not received electronic notification of the Order was because he was listed as "terminated" on the docket. Counsel assumed that this would be rectified by this contact.
5. Today, while seeking plaintiff's concurrence in a ten day enlargement to respond to the interrogatories, counsel learned for the first time that

¹Because Plaintiff is proceeding pro se counsel is overlooking the fact insufficient number of copies were served.

the Court had issued a revised scheduling Order on March 3, 2004, which included a direction to plaintiff to file a second amended complaint. Counsel went on line in the PACER system and discovered that he is still listed as “terminated.” It appears that the earlier contact with the Clerk’s Office did not cause a change in the status of defense counsel in this litigation and counsel can only assume that this is the reason counsel did not receive electronic notification of the March 3, 2004, Order.

6. Counsel pointed out to plaintiff in this afternoon’s conversation that some of the defendants from whom he seeks discovery were not involved in the decision to arrest plaintiff on June 1, 2004. Plaintiff explained that he recognized that some of these defendants were probably no longer proper parties because they were not involved in either the decision to arrest him on June 1, 1998, (particularly former Chairman William Ward and former District Director Daniel Roberts) or in supplying the information which he believes caused that arrest, but that he hoped to obtain information from them he felt they either uniquely possessed or to which they had better access to it than did the other defendants. Plaintiff also stated that he was hoping to avoid the burden of preparing a second amended complaint (as he is currently

required to do under the March 3, 2004, Order). Counsel, who had not read the March 3, 2004, Order, suggested that perhaps the parties could file an appropriate stipulation of voluntary dismissal as to the defendants whom plaintiff agrees should be dismissed (and some form of concurrence as to which of the paragraphs of the amended complaint relate to the sole remaining issue) to avoid plaintiff having to file a whole new amended complaint. Plaintiff seemed amenable to this suggestion.

7. Plaintiff has graciously concurred in defense counsel's request for the ten-day motion.

WHEREFORE, defendants Joseph Smith, Daniel Roberts, George Johnson, Charles B. Giornesto, and William Ward request until Thursday, April 1, 2004, to file responses to interrogatories propounded to them.

Respectfully submitted,

GERALD J. PAPPERT
Attorney General

BY: s/ Francis R. Filipi
FRANCIS R. FILIPI
Senior Deputy Attorney General
Attorney ID# 18630

SUSAN J. FORNEY
Chief Deputy Attorney General
Chief, Litigation Section

Counsel for Defendants
Pennsylvania Board of Probation
and Parole, Joseph Smith, Daniel
Roberts, George Johnson, Arthur
Thomas, K. Scott Roy, Thomas
Ridge, William Ward, Sharon
Burks, Seth Mendelsohn, Fred
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DATE: March 22, 2004

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Plaintiff

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PENNSYLVANIA BOARD OF
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Defendants

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No. 1:00-CV-00649

Judge Rambo

Magistrate Judge Smyser

CERTIFICATE OF CONCURRENCE

I, FRANCIS R. FILIPI, hereby certify that concurrence in the Motion for an
Enlargement of Time in Which to Respond to Interrogatories was sought from
plaintiff and he has concurred.

s/ Francis R. Filipi
FRANCIS R. FILIPI

DATED: March 22, 2004

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FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GAIL GALLOWAY	:	
Plaintiff	:	
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	:	
PENNSYLVANIA BOARD OF	:	Judge Rambo
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Defendants	:	

CERTIFICATE OF SERVICE

I, FRANCIS R. FILIPI, Senior Deputy Attorney General, hereby certify that on this date I caused to be served a copy of the foregoing Motion for an Enlargement of Time to Respond to Interrogatories, by depositing a copy in the United States Mail, postage prepaid, first class, in Harrisburg, PA, addressed to the following:

Gail Galloway
R.D. #1, Box 30
Petersburg, PA 16669

Plaintiff

s/ Francis R. Filipi
FRANCIS R. FILIPI
Senior Deputy Attorney General

DATED: March 22, 2004